

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District	
Name (under which you were convicted):		UNITED STATES DISTRICT	
<u>SoloThal Thomas</u>		of MARYLAND (Baltimore)	
Place of Confinement: <u>PO BOX 2068</u>		Docket or Case No.: <u>1:04-CR-00232-CCB</u>	
<u>USP BIG SANDY, INEZ, KY 41224-0000</u>		Prisoner No.: <u>41347-037</u>	
UNITED STATES OF AMERICA		Movant (include name under which convicted)	
V.		<u>SoloThal Thomas</u>	

**MOTION**

1. (a) Name and location of court which entered the judgment of conviction you are challenging:

NORTHERN DIVISION

UNITED STATES DISTRICT COURT OF MARYLAND (Baltimore)

(b) Criminal docket or case number (if you know): CCB-04-0232

2. (a) Date of the judgment of conviction (if you know): N/A 7/24/06

(b) Date of sentencing: OCT, 27, 2006

3. Length of sentence: LIFE with 240 month and 5 Years PROPRATION

4. Nature of crime (all counts): (2) CONSPIRACY TO USE INTERSTATE COMMERCE FACILITIES IN THE COMMISSION OF MURDER - FOR HIRE (3) INTERSTATE COMMERCE FACILITIES IN THE COMMISSION OF A MURDER - FOR HIRE (4) CONSPIRACY TO POSSESS A FIREARM IN FURTHERANCE OF A DRUG TRAFFICKING CRIME AND CRIME OF VIOLENCE (5) POSSESSION OF A FIREARM IN FURTHERANCE OF A DRUG - TRAFFICKING CRIME AND A CRIME OF VIOLENCE (6) A CRIME OF VIOLENCE RESULTING IN DEATH

5. (a) What was your plea? (Check one)

(1) Not guilty ☒

(2) Guilty ☐

(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to?

6. If you went to trial, what kind of trial did you have? (Check one)

Jury ☒

Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing?

Yes ☐

No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒

No ☐

9. If you did appeal, answer the following:

- (a) Name of court: UNITED STATES DISTRICT COURT OF MARYLAND <sup>Northern</sup> DIVISION
- (b) Docket or case number (if you know): CCB-04-0232
- (c) Result: Denied
- (d) Date of result (if you know): N/A
- (e) Citation to the case (if you know): N/A
- (f) Grounds raised:

(g) Did you file a petition for certiorari in the United States Supreme Court?

Yes



No



If "Yes," answer the following:

(1) Docket or case number (if you know): ~~CCB-04-0232~~ 08-6191

(2) Result: Denied

(3) Date of result (if you know): OCT, 14, 2008

(4) Citation to the case (if you know): N/A

(5) Grounds raised:

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☒

No ☐

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: UNITED STATES DISTRICT COURT OF MARYLAND <sup>Northern</sup> DIVISION
- (2) Docket or case number (if you know): CCB-04-0232-ECF-3103, 311
- (3) Date of filing (if you know): AUG, 21 and OCT, 25 2013
- (4) Nature of the proceeding: MOTION to Request the order of TRANSCRIPTS
- (5) Grounds raised: New discovered EVIDENCE

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☒

(7) Result: Denied

(8) Date of result (if you know): N/A

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: UNITED STATES DISTRICT COURT OF

(2) Docket of case number (if you know): CCB-04-0232

(3) Date of filing (if you know): MAY 2016

(4) Nature of the proceeding: Transcripts

(5) Grounds raised:

N/A

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☒

No ☐

(7) Result: Received Documents from court

(8) Date of result (if you know): June 2, 2016

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition:

Yes ☐

No ☒

(2) Second petition:

Yes ☐

No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not:

Because the District court sent some of the documents I Requested

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**GROUND ONE:** The Recent Ruling of Johnson v. UNITED STATES, 135 S. CT  
AND Welch v. UNITED STATES, 578 U.S. 2016

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

**(b) Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

The Johnson case and Welch was not ruled on when I did my appeal

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

**GROUND TWO:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

**(b) Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐

No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐

No ☒

~~was not~~ The Johnson case was Rule on After all my Remdys was

Denied



(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐

No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐

No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐

No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: \_\_\_\_\_

**GROUND THREE:** \_\_\_\_\_

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): \_\_\_\_\_

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**(b) Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

Johnson case wasn't Ruled on when I filed my Appeal

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

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(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

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**GROUND FOUR:** 

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(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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**(b) Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

*Johnson wasn't ruled on yet*

**(c) Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or petition: 

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Name and location of the court where the motion or petition was filed: 

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Docket or case number (if you know): 

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Date of the court's decision: 

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Result (attach a copy of the court's opinion or order, if available): 

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(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue:

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the you are challenging:

(a) At the preliminary hearing: ARCangelo

ARC M. Tuminelli

(b) At the arraignment and plea:

Arcangelo M. Tuminelli

(c) At the trial:

Arcangelo M. Tuminelli, Teresa Whalen

(d) At sentencing:

Arcangelo M. Tuminelli, Teresa Whalen

(e) On appeal:

Arcangelo M. Tuminelli

(f) In any post-conviction proceeding:

Arcangelo M. Tuminelli

(g) On appeal from any ruling against you in a post-conviction proceeding:

N/A

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: \_\_\_\_\_

(c) Give the length of the other sentence: \_\_\_\_\_

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☒ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.\*

The Johnson and Welch case WAS NOT Ruled on when  
I WAS Filing my MOTIONS

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief:

Johnson/Welch Resentence, Remanded  
or any other relief to which movant may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on JUNE 20, 2016  
(month, date, year)

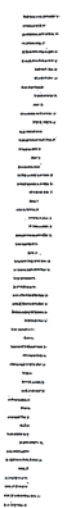
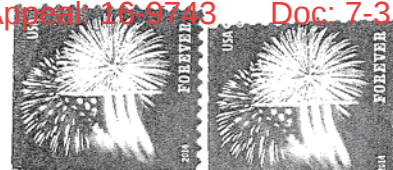
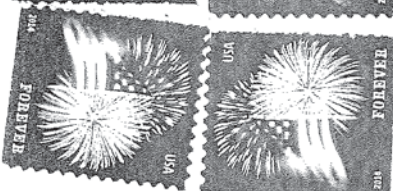
Executed (signed) on JUNE 20 (date)

Solthal Thomas  
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion.

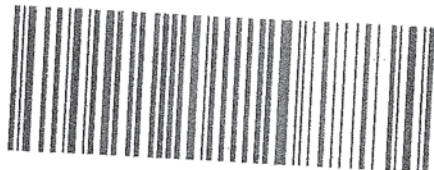


USP BIGSANDY #41347-037  
P.O Box 2068  
Inez, KY 41224-6000



Legal MAIL

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CERTIFIED MAIL  
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

INSPECTED

JUL 06 2016

41347-037

U S Court Of Appeals Clerk Office  
1100 4TH Cir.E Main St Suite 501  
Richmond, VA 23219  
United States

Legal MAIL

R23

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**  
1100 East Main Street, Suite 501, Richmond, Virginia 23219

June 28, 2016

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**DOCKET CORRECTION NOTICE**

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No. 16-9743, In re: Solothal Thomas  
1:04-cr-00232-CCB-1

TO: Solothal Thomas

Please file the exhibit identified below immediately.

[X] Proposed Section 2255 motion you seek authorization to file in the district court (on the attached form).

RJ Warren, Deputy Clerk  
804-916-2702

RECEIVED  
2016 JUL -6 AM 10:45  
U.S. COURT OF APPEALS  
FOURTH CIRCUIT